98-205(IT)G

BETWEEN:

GIULIA TODESCO,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeal of ***Giulia Todesco, the Personal Representative of the Estate of Danilo Todesco (deceased) (98-206(IT)G)*** on September 20, 1999 at Vancouver, British Columbia, by

the Honourable Judge Gordon Teskey

Appearances

Counsel for the Appellant:	P. Daniel Le Dressay
Counsel for the Respondent:	Victoria A. Bryan

JUDGMENT

The appeal from the assessment made under the *Income Tax Act* for the 1992 taxation year is dismissed, with costs to the Respondent, in accordance with the attached Reasons for Judgment.

These appeals having been heard together, only one counsel fee for trial is allowed.

Signed at Calgary, Alberta, this 6th day of October, 1999.

"Gordon Teskey"

J.T.C.C.

98-206(IT)G

BETWEEN:

GIULIA TODESCO, THE PERSONAL REPRESENTATIVE
OF THE ESTATE OF DANILO TODESCO (DECEASED),

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeal of ***Giulia Todesco (98-205(IT)G)*** on September 20, 1999 at Vancouver, British Columbia, by

the Honourable Judge Gordon Teskey

Appearances

Counsel for the Appellant:	Daniel P. Le Dressay
Counsel for the Respondent:	Victoria A. Bryan

JUDGMENT

The appeal from the assessment made under the *Income Tax Act* for the 1992 taxation year is dismissed, with costs to the Respondent, in accordance with the attached Reasons for Judgment.

These appeals having been heard together, only one counsel fee for trial is allowed.

Signed at Calgary, Alberta, this 6th day of October, 1999.

"Gordon Teskey"

J.T.C.C.

Date: 19991006
Dockets: 98-205(IT)G
98-206(IT)G

BETWEEN:

GIULIA TODESCO,
GIULIA TODESCO, THE PERSONAL REPRESENTATIVE OF
THE ESTATE OF DANILO TODESCO (DECEASED),

Appellants,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Teskey, J.T.C.C.

[1] The Appellants appeal from reassessments of income tax for the 1992 taxation year, wherein the Minister of National Revenue (the "Minister") determined that no more than one-half hectare of the property that contained the Appellants' residence was necessary for the use and enjoyment of the property as a residence by the Appellants.

ISSUE

[2] There is no issue as to the value of the Property. The only issue is whether the Minister properly assessed the Appellants on the basis that land, in excess of 1/2 a hectare of the Property, was not part of the Appellants' principal residence, as it was not necessary to the Appellants' use and enjoyment of the housing unit as a residence.

FACTS

[3] The parties submitted an agreed upon Statement of partial facts, the pertinent ones to these appeals are as follows:

1. On or about January 13, 1976, the late Danilo Todesco and Guilia Todesco ("Mr. and Mrs. Todesco") entered into an agreement for sale (the "Agreement for Sale") to purchase for $290,000 the property situated at 375 Inglewood Avenue, West Vancouver, British Columbia (the "Property"), more particularly described as:

   SOUTH WEST 1/4 of
   DISTRICT LOT 1074,
   GROUP 1, New Westminster District

2. A copy of the Agreement for Sale is attached hereto at **Tab 1**.

3. The Agreement for Sale was later modified to reflect changes in interest rates and payment terms.

4. In or about May 1991, title to the Property in fee simple was transferred to Mr. and Mrs. Todesco as joint tenants. The transfer was registered in the Land Titles Office on May 30, 1991. A copy of the transfer document is attached hereto at **Tab 2**.

5. The Property was 1.138 hectares (or 2.813 acres), and included a single family housing unit (the "Housing Unit"). A copy of the plan of the Property is outlined in red at **Tab 3** attached hereto.

6. Mr. and Mrs. Todesco resided in the Housing Unit from 1976 until the Property was sold in 1992.

7. Mr. and Mrs. Todesco subdivided the Property in June of 1991, creating two lots, a 0.275 acre lot (the "Smaller Lot") and a 2.538 acre lot on which the Housing Unit was located (the "Larger Lot"). The Smaller Lot is indicated in yellow on the copy of the plan attached hereto at **Tab 4**.

8. The new street address of the Smaller Lot was 371 Inglewood Avenue, West Vancouver, British Columbia. The street address of the Larger Lot remained as 375 Inglewood Avenue, West Vancouver, British Columbia.

9. Mr. and Mrs. Todesco sold the Smaller Lot to developers on or about June 5, 1992 for $220,000. A copy of the Vendor's Statement of Adjustments is attached hereto at **Tab 5**.

10. Mr. and Mrs. Todesco sold the Larger Lot to the same developers on or about August 14, 1992 for $1,200,000. A copy of the Vendor's Statement of Adjustments is attached hereto at **Tab 6**.

11. The Housing Unit was subsequently removed, and the entire parcel (the Smaller Lot and the Larger Lot) was subdivided into 8 parcels. A copy of the plan showing the Property outlined in red and the 8 parcel subdivision is attached hereto at **Tab 7**.

12. From the time Mr. and Mrs. Todesco entered into the agreement for sale in January 1976 and up to and including the sale of the Property in 1992, the Property was zoned RS-3 (residential single family zone 3), with a minimum lot size as permitted by the City of West Vancouver of 12,000 square feet.

13. Subdivision of the Property was legally possible at the time Mr. and Mrs. Todesco first entered into the Agreement for Sale in January 1976, at the time of disposition of the Property in 1992, and throughout that entire period.

…

15. Mr. Todesco died on August 3, 1995.

[4] Schedule A to these reasons shows the property identified as 375 Inglewood upon which the residence was located and shows the size of the properties in the immediate neighbourhood.

[5] Schedule B to these reasons shows the remainder after the severance, which is still identified as 375 Inglewood, and the severed parcel which is identified as "Severed Parcel".

[6] Over and above these agreed upon facts, oral testimony was received from Giulia Todesco ("Giulia"), her daughter Sonia Sadin ("Sonia") and her one son Sergio Bill Todesco ("Sergio").

[7] Their evidence was not challenged and established that the small existing house that was located on the property at the time of purchase was extensively renovated and a large addition was built turning the modest house into a luxurious large home with a built-in swimming pool.

[8] The oral evidence also established that from the outset the family used continuously the whole parcel for recreational purposes, both in the sense of active use by the Appellants' children and just to sit and look at what Giulia and her husband thought, was pleasing to the eye and relaxing. As far as the three children, this was their own playground where all the neighbourhood children would come and play with them. They would play outdoor games as well as fishing in a large pond. They also had numerous animals, such as geese, ducks, rabbits, peacocks and other birds, as well as two family dogs.

[9] In 1989, the property was unsuccessfully put up for sale.

[10] In 1991, a decision to sever a parcel off the property was made for financial reasons, but it did not sell. In 1992, a sale of the severed parcel was entered into on condition that the purchaser could buy the remaining large parcel. Both sales were completed in 1992 and the purchaser developer proceeded to remove the house and subdivide the entire parcel as shown on Schedule C.

[11] Giulia and her late husband did not have plans *per se* to develop the lands but did talk about their three children building their homes on the property which undoubtedly would have required three severances.

ANALYSIS

[12] "Principal residence" is defined in section 54 of the *Income Tax Act* (the "*Act*"), and paragraph (*e*) of that definition is what is before me herein. Abbreviated, it reads:

> (*e*) the principal residence of a taxpayer for a taxation year shall be deemed to include … the land subjacent to the housing unit and such portion of any immediately contiguous land as can reasonably be regarded as contributing to the use and enjoyment of the housing unit as a residence, except that where the total area of the subjacent land and of that portion exceeds 1/2 hectare, the excess shall be deemed not to have contributed to the use and enjoyment of the housing unit as a residence unless the taxpayer establishes that it was necessary to such use and enjoyment, and

Thus from reading this provision, it can be seen that there are two situations that can arise.

[13] Firstly, where the parcel of land in question is less than 1/2 a hectare in size, then the test is what contiguous land "can reasonably be regarded as contributing to the use and enjoyment of the housing unit as a residence".

[14] Secondly, these situations deal with contiguous land that is in excess of 1/2 a hectare. This provision deems the land over 1/2 a hectare not to have contributed to the use and enjoyment of the housing unit as a residence, unless the taxpayer establishes that, that is what was necessary for such use and enjoyment.

[15] The parties referred me to several decisions, which I will attempt to summarize in chronological order.

[16] Mahoney J. of the Federal Court Trial Division, in *The Queen v. Yates*, 83 DTC 5158, was dealing with a situation where the taxpayers built a residence on a 10-acre parcel which was the minimum residential parcel permitted by the zoning. Mahoney held that since the taxpayers could not legally have occupied their housing unit as residence on less than 10 acres, then the portion in excess of the one acre (as the statute then read) was necessary for their use and enjoyment. He said at page 5159:

> In my opinion, the critical time is the moment before disposition. It is possible that a subjective test, involving the actual contribution of the immediately contiguous land to the taxpayer's use and enjoyment of the unit as a residence, may be admissible. Perhaps such factors as are commonly taken into account in applying subsection 24(6) of the *Expropriation Act* could be relevant in appropriate circumstances. However, whether or not a subjective test is properly to be applied, an objective test surely is and if, in its application, it is found that the taxpayer has discharged the onus on him, it is unnecessary to consider the subjective.

[17] The next decision was a decision of my colleague Taylor J. in *Rudeloff v. M.N.R.*, 84 DTC 1548. There, the taxpayer sold his principal residence and the surrounding 10 acres. The relevant zoning by-laws required lots at least five acres in size. He found as a fact that the excess land was for the use of raising the taxpayer's five children and enjoyment of the family riding horses, etc. He stated at page 5149:

> I am satisfied that the entire ten-acre parcel of land "contributed to the individual's use and enjoyment of the housing unit as a residence . . ." (section 54(*g*) of the Act S.C. 1970-71-72, c. 63 as amended), but it must be established that the excess portion at

issue was "necessary" to such use and enjoyment". I would refer to three cases dealing with the subject: *Donald Fraser v. The Minister of National Revenue* (83 DTC 148); *Her Majesty, The Queen v. William Yates* (83 DTC 5158); *Elmo B. Baird v. The Minister of National Revenue* (83 DTC 582).

In both, *Yates* (*supra*) and *Baird* (*supra*) there were severances of the man, parcel of land, leaving (according to the arguments of the appellants) a portion of the original "principal residence" sold, and a portion of it retained, somehow still called "principal residence". Because of the above-noted distinction, I do not believe that either *Yates* (*supra*) or *Baird* (*supra*) can serve as complete guidelines in this instant appeal. Mr. Rudeloff did not divide his property at the critical date, in the same way. Therefore to whatever degree there can be any comparison made, it must be made to *Fraser* (*supra*) and the critical phrases therein at pages 452 and 453:

> Also, I would emphasize that the *Act* is perfectly clear — the principal residence is the housing unit — and only the housing unit — anything beyond that is apparently a concession to practicality and reasonableness.

. . .

Certainly the family could reside in the house without even setting foot on the garden and play area.

. . .

. . .It is important to perceive of the excess area in dispute as indispensable in its direct relationship to the residential properties of the housing unit, not merely in its utility and value to the inhabitants thereof.

I am not persuaded the relevant section of the *Income Tax Act* permits of the view espoused by this taxpayer — that merely because he resided in a housing unit on the property, and used the balance of the property in one way or another to enhance the utility and attractiveness of that domestic living style, he can expand the boundaries of his housing unit to the parameters of the natural domain desired in his appeal.

[18] The next decision in line is that of my colleague Bonner J., in *Watson et al. v. M.N.R.*, 85 DTC 270. Therein, dealing with the statutory definition and intended use of the extra surrounding land, he said at page 271:

> The argument that the surrounding land was necessary having regard to the intended use of the property ignores the statutory definition. The excess land must be shown to be necessary to the use and enjoyment of the house "as a residence". The definition cannot be treated as if the words "as a residence" have no meaning. In this regard I refer to *Betty Madsen v. The Minister of National Revenue*.

[19] A month after the *Watson* case, Christie A.C.J. as he then was, wrote the *Rode et al. v. M.N.R.* decision, found at 85 DTC 272. There the taxpayers had purchased 9.3 acres of land and established their residence thereon. They used the excess land to raise their own food and they lived a self-sufficient lifestyle. Christie said at page 273, 274 and 275:

> Paragraph 54(*g*) of the *Act* defines "principal residence" of a taxpayer for a taxation year. It includes the stipulation that the geographical limits up to 1 acre (now 1/2 hectare) of a principal residence is the land subjacent to the housing unit and such portion of any immediately contiguous land as may reasonably be regarded as contributing to the taxpayer's use and enjoyment of the housing unit as a residence. This means that the area encompassed by a principal residence is a variable depending upon the pertinent circumstances. I am also of the view that the test to be applied in determining what that area is, is flexible having particular regard to the underlined words if the taxpayer is not contending that the subjacent and immediately contiguous land comprising his principal residence exceeds 1 acre. In such cases significant weight should be attached in favour of an appellant to credible evidence that can be sensibly regarded as making the kind of contribution described. If, on the other hand, the appellant is contending that the parameters of his principal residence exceed 1 acre, he is faced with a significantly altered and more difficult task. In these circumstances the law provides that the excess shall be deemed not to have contributed to the appellant's use and enjoyment of the housing unit as a residence unless he establishes that it was necessary to such use and enjoyment. The underlined words are key. The word "deemed" in paragraph 54(*g*) has this consequence. Even if an appellant establishes beyond controversy that what exceeds 1 acre did in fact make an important contribution to his use and enjoyment of the housing unit as a residence, this does not assist him because the fact has been nullified by the legislation unless he proves necessity. Therefore what an appellant must do in order to establish that his principal residence exceeds 1 acre is to prove that the excess was "necessary" to the use and enjoyment of the housing unit as a residence. I believe that in its context this

requirement dictates that a stringent test shall be applied in determining the acreage of a principal residence. I am also of the opinion that what constitutes a principal residence is to be decided throughout by objective, not subjective, testing. To determine a *lis* respecting the boundaries of a principal residence on the basis of evidence which is purely the mental perception of one of the parties to the controversy would strike me as raising a serious question of justness although I appreciate that the words "contribute to the taxpayer's enjoyment" in paragraph 54(*g*) tend to draw one towards applying a subjective test in this regard.

Parliament has placed two things together contraposed. First, provision for the determination of variable dimensions of land which may constitute the principal residence of taxpayers in respect of which they can succeed in what they contend is the correct dimension by meeting the application of a flexible test. This applies to an area which has fixed lines of demarcation which must not exceed 1 acre. Second, provision for the determination of variable dimensions of land which may constitute the principal residence of taxpayers which are in excess of 1 acre and which have no fixed outer limits. I believe that in this regard it was the intention of Parliament that crossing the demarcation lines of 1 acre and the process of expansion beyond them shall be a formidable task. This is the effect of the injection of the word "necessary" in determining dimensions in excess of 1 acre. Among the interpretations assigned to the word "necessary" in the *Oxford English Dictionary* is: "Indispensable, requisite, essential, needful; that cannot be done without". From this selection I believe that the phrase "that cannot be done without" best epitomizes what a taxpayer must meet in order to establish that his principal residence can properly be regarded as greater than 1 acre. To my mind, the proper approach to the determination of these appeals is to objectively consider all of the relevant circumstances adduced in evidence which were in existence immediately prior to the disposition of the property and in the light of that answer this question: Have the appellants established on a balance of probabilities that without the area of land which they contend constitutes the subjacent and immediately contiguous land component of their housing unit they could not practicably have used and enjoyed the unit as a residence? I say "immediately prior to the disposition" because "the critical time is the moment before disposition": *The Queen v. Yates*, 83 DTC 5158 at 5159. Decided cases signify that legal attributes attaching to land may or may not determine the magnitude of the land component of a principal residence. This is illustrated by reference to *Yates* (*supra*) and *Watson et al. v. M.N.R.* . In *Yates* the taxpayers had purchased 10

acres of vacant land on which they built a residence. This was the minimum residential area permitted under applicable zoning laws. The effect of these laws as described by Mahoney, J. at p. 5159 was that: "The Defendants could not legally have occupied their housing unit as a residence on less than ten acres" (emphasis supplied). His Lordship went on to say:

> It follows that the entire ten acres, subjacent and contiguous, not only "may reasonably" be regarded as contributing to their use and enjoyment of their housing unit as a residence; it must be so regarded. It also follows that the portion in excess of one acre was necessary to that use and enjoyment.

In *Watson*, Bonner, T.C.J. said:

> Mr. Watson stated that both when the property was acquired and when it was expropriated it could not be severed. He referred, I assume, to the prohibition contained in subsection 29(2) of the *Planning Act*, R.S.O. 1970, Chap. 349. The argument seemed to be that in order to use the house and in particular to have access to it the whole parcel was necessary because it was not possible to convey the house and a strip of land required for the driveway without, at the same time, conveying the rest of the parcel. In my view the definition of "principal residence" contained in paragraph 54(*g*) is such that considerations as to what can lawfully and effectively be conveyed are irrelevant. The amount of land which contributes to the use and enjoyment of a housing unit is not, by paragraph 54(*g*) of the *Income Tax Act*, made to depend on what can lawfully be bought and sold.

The essence of the appellants' position is that because of the particular lifestyle which they chose to pursue while residing on the property their principal residence, for the purposes of paragraph 54(*g*) of the *Act*, constituted 9.3 acres at the time of its sale in 1977, not 1 acre as asserted by the respondent. While the appellants mode of existence was of course perfectly acceptable, some might say commendable, it was not something that operated to their tax advantage on the disposition of the property. On the basis of the evidence adduced, they have failed to show that the second question previously posed should be answered in the affirmative.

[20] Christie A.C.J., again dealing with this paragraph of the *Act*, dealt with a fish pond in *Cox et al. v. M.N.R.*, 85 DTC 320, and he said:

> … The dugout or fish pond was quite capable of contributing to the use and enjoyment of the housing unit as a residence, but it does not meet the test of necessity enunciated in *Rode*. …

[21] In 1986, the Federal Court of Appeal confirmed Mahoney J. in *Yates* (*supra*).

[22] Strayer J., as he then was of the Federal Court Trial Division, in *Fourt v. The Queen*, [1991] 2 C.T.C. 311, dealing with a taxpayer that owned two adjacent lots, one on which her principal residence was located and on the other subsidiary buildings, lawn and parking space. The taxpayer sold the subsidiary lot. The two lots together were less than 1/2 a hectare. Strayer allowed the appeal and said at page 314:

> … The word "reasonably" implies some kind of objective test in the sense that the Court is not obliged to indulge the most extravagant or fanciful views of a taxpayer as to how contiguous land contributes to the use and enjoyment of her residence. But where there is credible evidence, as there is here, of actual use and enjoyment by the taxpayer of the contiguous land in connection with her house, and such use and enjoyment is not of an exaggerated or unnatural sort, a great deal of weight must be attached to it in assessing whether such use can be reasonably regarded as contributing to the taxpayer's use and enjoyment of his residence [In *Rode v. M.N.R.*, above-mentioned, at 274 Christie A.C.J.T.C. made a similar observation, although in *obiter dicta*.]. It is not for the officials of the Department of National Revenue, nor for the courts, to be the arbiters of life-styles chosen by taxpayers. We must resist the temptation to reject too readily the taxpayer's choice of what contributes to the use and enjoyment of his residence just because others might choose differently: in particular we are not entitled to reject the taxpayer's claim that certain land contributed to the use and enjoyment of his residence simply because in our view such land was not necessary to that use and enjoyment. The latter test is appropriate only for dispositions of holdings totalling more than 1/2 hectare.

[23] The Federal Court of Appeal dealt with a sale of 8.99 acres of property in *Augart v. The Queen*, 93 DTC 5205. Robertson J.A., with Heald J.A. concurring, said that a determination regarding acres of land to be deemed a principal residence

should not be resolved by the mechanical application of a single criterion such as minimum lot size on the date of disposition.

[24] Linden J.A. dissented and stated that the effect of paragraph 54(*g*) of the *Act* was well summarized by Christie A.C.J. in *Rode* (*supra*). He also said on page 5211:

> The exception described in paragraph 54(*g*) is aimed only at situations where extra land beyond one acre is necessary for the use and enjoyment of the housing unit as a residence. One example furnished by counsel for the Crown was where more than one acre is required for a driveway to reach the house. Another supplied by him was where a house is built into the side of a hill and needs more than one acre to support it. There are certainly numerous other situations akin to these.
>
> A further situation that has been developed in the jurisprudence is where it is impossible to occupy a residence on a parcel of land less than one acre because of a local by-law to that effect. In *The Queen v. Yates*, 83 DTC 5158(F.C.T.D.), aff'd 86 DTC 6296 (F.C.A.), …

[25] The Federal Court of Appeal again dealt with this issue two years later, in the split decision of *Carlile v. The Queen*, 95 DTC 5483. The headnote therein correctly summarized Desjardins J.A.'s reasons, concurred in by MacGuigan, which read:

> Held: The taxpayer's appeal was allowed. A taxpayer who contends that an area in excess of a half hectare (one acre) of the subjacent land is his principal residence must prove its necessity. According to the case law, this is a "formidable" task. One way of accomplishing it is by reference to what is known as an objective test. Where the land does not qualify on the objective test, it may qualify as part of the principal residence by recourse to a subjective test. In this case, the taxpayer had met the objective test not only vis-a-vis the 25-acre minimum allotment size for her property, but also for the remainder, since the local authority would not have authorized a partition of her lot between 25 acres and the remainder. She was, therefore, entitled to be exempted from tax on capital gains for the whole of her parcel of land. The Minister was ordered to reassess accordingly.

She says at page 5484:

> A taxpayer who contends that an area in excess of a half hectare (one acre) of the subjacent land in his principal residence must prove its necessity. The burden is on him to establish that the excess is necessary to the use and enjoyment of the housing unit as a residence.

[26] Desjardins J. agreed with Christie in *Rode* (*supra*), when she went on to say:

> This task, according to the case law, is a "formidable" one. One way of establishing that land in excess of one acre is necessary to the use and enjoyment of the housing unit as a residence is by reference to what is known as an objective test. Where land does not qualify on the objective test it may, however, qualify as part of the principal residence by recourse to a subjective test.

[27] McDonald J.A., in dissent, also quotes Christie, in *Rode*. McDonald J.A. disagrees in regard to what Mahoney J. decided in *Yates* (*supra*).

[28] Since *Carlile*, the Tax Court has dealt with this provision in *Sendher v. The Queen*, [1998] 1 C.T.C. 2709 and *Rowe v. The Queen*, [1998] 4 C.T.C. 2859. Neither decision is of much help here.

[29] Based on this jurisprudence, I do not believe that recreational uses or lifestyle uses fall within the wording of the definition and in particular the following words:

> "can reasonably be regarded as contributing to the use and enjoyment of the housing unit as a residence".

[30] If recreational or lifestyle uses qualified, a taxpayer might argue that his 1,000-acre ranch in the foothills, where he or she hunted and fished and sat on the front porch to appreciate a magnificent view, contributed to the enjoyment of the housing unit as a residence.

[31] Herein, Giulia and her late husband purchased this large parcel because they desired a lifestyle similar to what the husband had in Italy. He wanted the excess land to be used by his family for their and their friends' enjoyment and for his to sit back and enjoy

[32] Having said that, I do not find that the use of this excess land was necessary for the use and enjoyment of the house as a residence. The larger lot gave Giulia,

her husband and their children, a lifestyle in which they desired to live, but that lifestyle was not necessary for the use and enjoyment of their house as a residence.

[33] I agree that an example that would qualify is where additional land is required for a driveway to reach the residence or a 2-hectare sewage lagoon to handle the effluent from a large multi-room residence.

[34] For these reasons, the appeals are dismissed, with costs to the Respondent, with only one counsel fee for the trial.

Signed at Calgary, Alberta, this 6th day of October, 1999.

"Gordon Teskey"

J.T.C.C.

COURT FILE NO.:	98-205(IT)G 98-206(IT)G
STYLE OF CAUSE:	Giulia Todesco and The Queen Giulia Todesco the Personal Representative of Danilo Todesco (deceased) and The Queen
PLACE OF HEARING:	Vancouver, British Columbia
DATE OF HEARING:	September 20, 1999
REASONS FOR JUDGMENT BY:	The Honourable Judge Gordon Teskey
DATE OF JUDGMENT:	October 6, 1999

APPEARANCES:

Counsel for the Appellants:	P. Daniel Le Dressay
Counsel for the Respondent:	Victoria A. Bryan

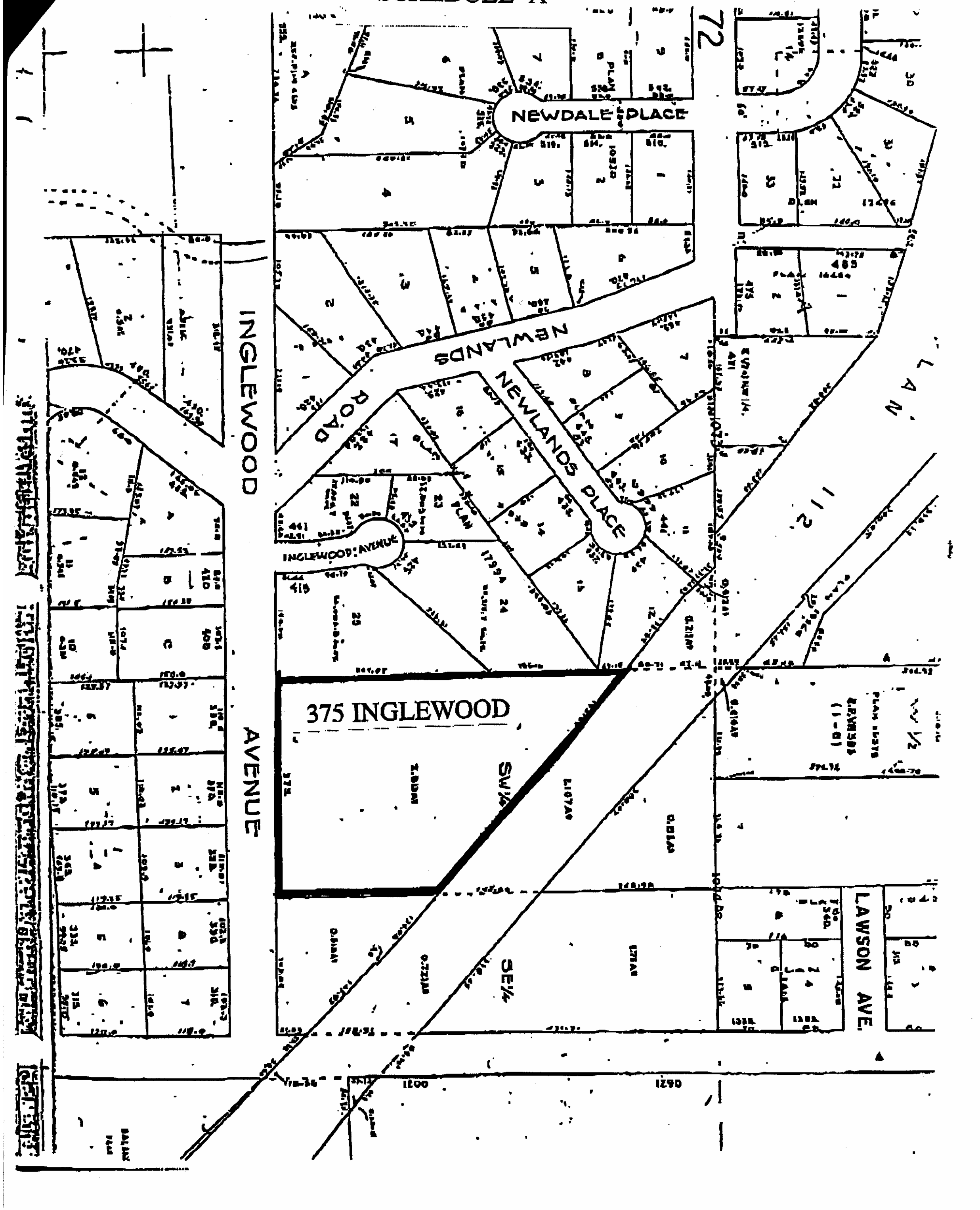
COUNSEL OF RECORD:

For the Appellant:

Name:	P. Daniel Le Dressay
Firm:	Le Dressay & Company, Barristers & Solicitors Vancouver, British Columbia

For the Respondent:	Morris Rosenberg Deputy Attorney General of Canada Ottawa, Canada

SCHEDULE A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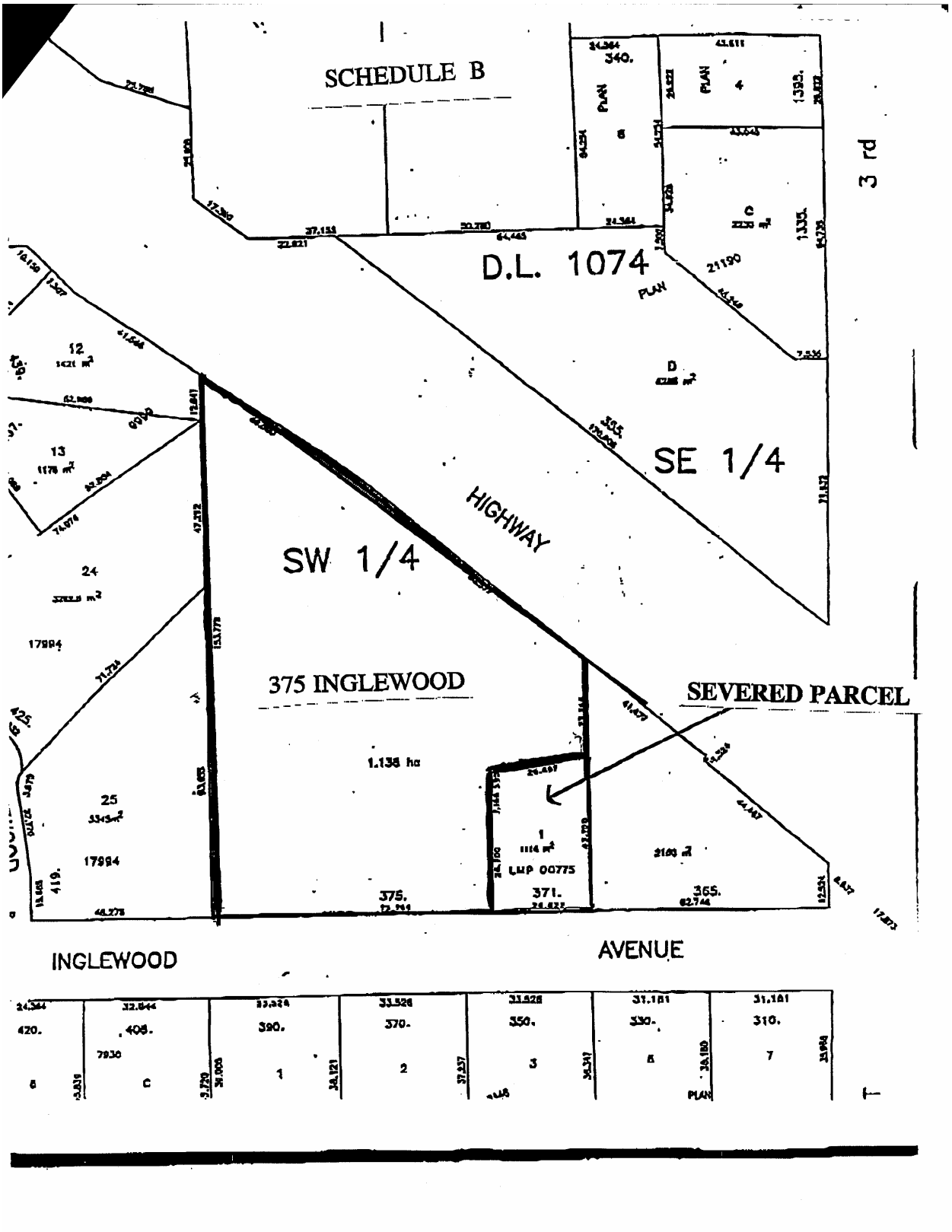
1290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PLAN
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406.
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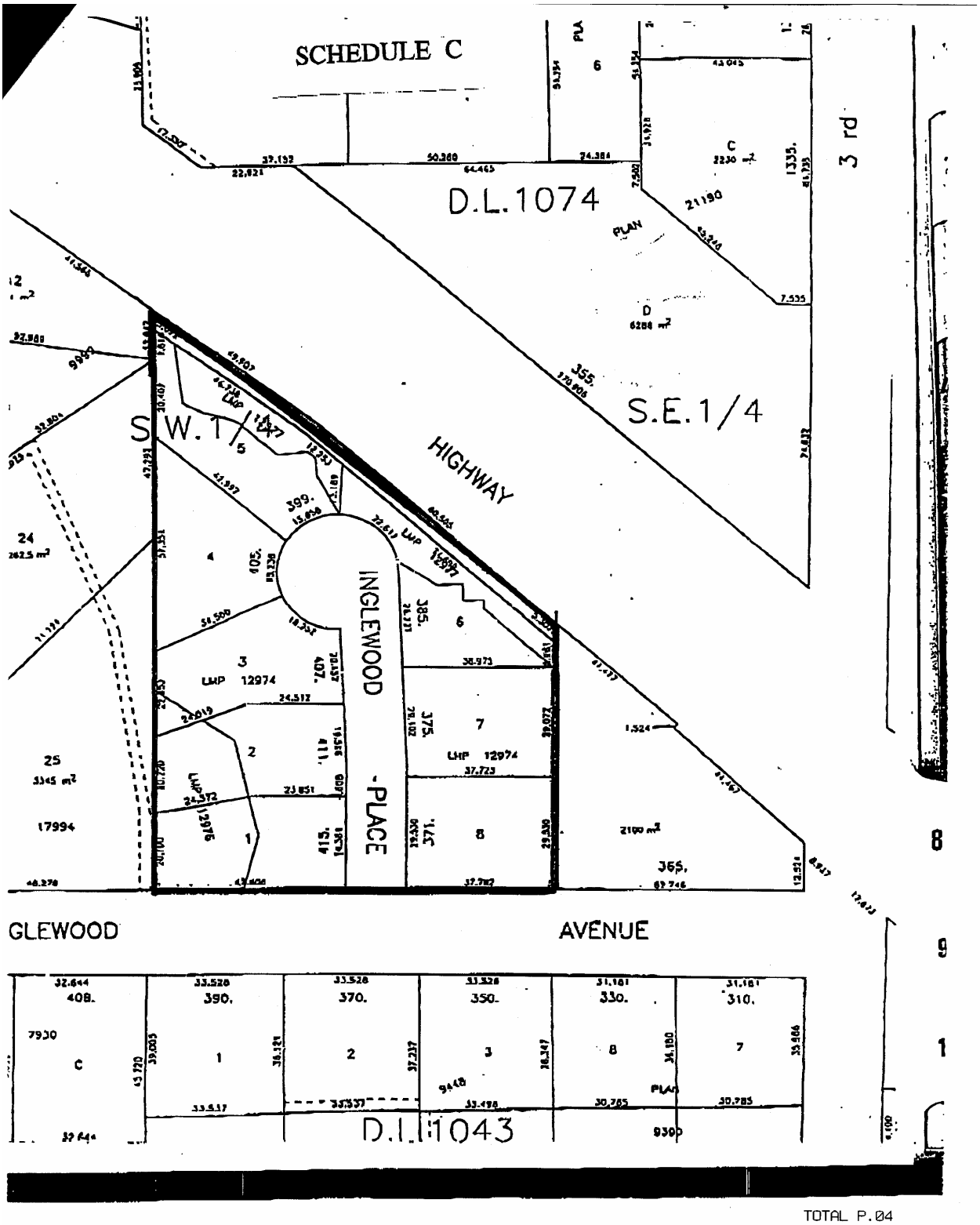
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S.W.1/4
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D.L.1043
LMP 12974
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7930
9300

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